

**UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION**

Washington, D.C. 20549

**FORM S-8  
REGISTRATION STATEMENT  
UNDER  
THE SECURITIES ACT OF 1933**

**NEOPHOTONICS CORPORATION**

(Exact name of registrant as specified in its charter)

**Delaware**  
(State or other jurisdiction of  
incorporation or organization)

**94-3253730**  
(I.R.S. Employer  
Identification No.)

**NeoPhotonics Corporation**  
2911 Zanker Road  
San Jose, California 95134  
(408) 232-9200  
(Address of principal executive offices)

**2010 Equity Incentive Plan**  
**2010 Employee Stock Purchase Plan**  
(Full title of the plan)

**Timothy S. Jenks**  
**Chief Executive Officer**  
c/o NeoPhotonics Corporation  
2911 Zanker Road  
San Jose, California 95134  
(408) 232-9200

(Name, address, including zip code, and telephone number, including area code, of agent for service)

**Copies to:**  
**John H. Sellers, Esq.**  
Cooley LLP  
3175 Hanover Street  
Palo Alto, California 94304  
(650) 843-5000

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, a smaller reporting company or an emerging growth company. See the definitions of "large accelerated filer," "accelerated filer," "smaller reporting company," and "emerging growth company" in Rule 12b-2 of the Exchange Act.

Large accelerated filer	<input type="checkbox"/>	Accelerated filer	<input checked="" type="checkbox"/>
Non-accelerated filer	<input type="checkbox"/>	Smaller reporting company	<input type="checkbox"/>
Emerging growth company	<input type="checkbox"/>		

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 7(a)(2)(B) of the Securities Act

**CALCULATION OF REGISTRATION FEE**

Title of Securities to be Registered	Amount to be Registered <sup>(1)</sup>	Proposed Maximum Offering Price Per Share <sup>(4)</sup>	Proposed Maximum Aggregate Offering Price <sup>(4)</sup>	Amount of Registration Fee <sup>(4)</sup>
Common Stock, par value \$0.0025 per share				
– 2010 Equity Incentive Plan	1,623,244 shares <sup>(2)</sup>	\$ 6.31	\$ 10,242,669.64	\$ 1,241.41
– 2010 Employee Stock Purchase Plan	100,000 shares <sup>(3)</sup>	\$ 6.31	\$ 631,000.00	\$ 76.48
<b>Total</b>	1,723,244 shares		\$ 10,873,669.64	\$ 1,317.89

- Pursuant to Rule 416(a) promulgated under the Securities Act of 1933, as amended (the "Securities Act"), this Registration Statement shall also cover any additional shares of the Registrant's Common Stock that become issuable under the 2010 Equity Incentive Plan, the 2010 Employee Stock Purchase Plan and the 2011 Inducement Award Plan set forth herein by reason of any stock dividend, stock split, recapitalization or other similar transaction effected without receipt of consideration that increases the number of outstanding shares of the Registrant's Common Stock.
- Represents an increase in the number of shares of Common Stock reserved for issuance under the NeoPhotonics Corporation 2010 Equity Incentive Plan, as amended, pursuant to an evergreen provision contained therein.
- Represents an increase in the number of shares of Common Stock reserved for issuance under the NeoPhotonics Corporation 2010 Employee Stock Purchase Plan, as amended, pursuant to an evergreen provision contained therein.
- Estimated solely for the purpose of calculating the amount of the registration fee pursuant to Rule 457(h) and Rule 457(c) promulgated under the Securities Act. The offering price per share and aggregate offering price are based on the average of the high (\$6.40) and low (\$6.21) sales prices of the Registrant's Common Stock on April 8, 2019, as reported on the New York Stock Exchange.



## EXPLANATORY NOTE

This Registration Statement on Form S-8 is being filed for the purpose of registering an additional (a) 1,623,244 shares of the Registrant's Common Stock reserved for issuance under the Registrant's 2010 Equity Incentive Plan and (b) 100,000 shares of the Registrant's Common Stock reserved for issuance under the Registrant's 2010 Employee Stock Purchase Plan.

The Registrant's Form S-8 Registration Statements filed with the Securities and Exchange Commission (the "**Commission**") on February 2, 2011 (File No. 333-172031), October 13, 2011 (File No. 333-177306), February 10, 2012 (File No. 333-179453), June 25, 2013 (File No. 333-189577), July 25, 2014 (File No. 333-197657), March 24, 2015 (File No. 333-202942), March 24, 2016 (File No. 333-210399), April 7, 2017 (File No. 333-217211) and March 14, 2018 (File No. 333-223661) relating to the Registrant's 2010 Equity Incentive Plan and certain other plans, are incorporated herein by reference and made a part hereof.

## PART II INFORMATION REQUIRED IN THE REGISTRATION STATEMENT

### Item 3. Incorporation of Documents by Reference.

The following documents previously filed by the Registrant with the Commission (File No. 001-35061) are incorporated into this Registration Statement on Form S-8 by reference:

- (a) The Registrant's Annual Report on Form 10-K for the fiscal year ended December 31, 2018, filed with the Commission on March 8, 2019;
- (b) The Registrant's Current Report on Form 8-K (excluding any information and exhibits furnished under either Item 2.02 or Item 7.01 thereof) filed with the Commission on January 14, 2019; and
- (c) The description of the Registrant's Common Stock contained in the Registration Statement on Form 8-A filed with the Commission on January 28, 2011, under the Securities Exchange Act of 1934, as amended (the "Exchange Act").

All reports and other documents filed by the Registrant pursuant to Sections 13(a), 13(c), 14 and 15(d) of the Exchange Act after the date of this Registration Statement, prior to the filing of a post-effective amendment to this Registration Statement which indicates that all securities offered hereby have been sold or which deregisters all securities then remaining unsold, shall be deemed to be incorporated by reference into this Registration Statement and to be part hereof from the date of filing of such reports and documents.

Any statement contained in a report or document incorporated or deemed to be incorporated by reference into this Registration Statement shall be deemed to be modified or superseded for purposes of this Registration Statement to the extent that a statement contained herein or in any other subsequently filed report or document which is also or is deemed to be incorporated by reference herein modifies or supersedes such statement. Any such statement so modified or superseded shall not be deemed, except as so modified or superseded, to constitute a part of this Registration Statement.

### Item 8. Exhibits.

Exhibit Number	Description	Incorporated by Reference			Filed Herewith
		Schedule Form	File Number	Exhibit	
4.1	<a href="#">Amended and Restated Certificate of Incorporation of NeoPhotonics Corporation.</a>	8-K	001-35061	3.1	February 10, 2011
4.2	<a href="#">Amended and Restated Bylaws of NeoPhotonics Corporation.</a>	S-1	333-166096	3.4	November 22, 2010
4.3	<a href="#">Specimen Common Stock Certificate of NeoPhotonics Corporation.</a>	S-1	333-166096	4.1	May 17, 2010
5.1	<a href="#">Opinion of Cooley LLP.</a>				x
23.1	<a href="#">Consent of Cooley LLP (included in Exhibit 5.1).</a>				x
23.2	<a href="#">Consent of Deloitte &amp; Touche LLP, independent registered public accounting firm.</a>				x

Exhibit Number	Description	Incorporated by Reference			Filing Date	Filed Herewith
		Schedule Form	File Number	Exhibit		
24.1	<a href="#">Power of Attorney (reference is made to the signature page of this Form S-8).</a>					x
99.1	<a href="#">NeoPhotonics Corporation 2010 Equity Incentive Plan, as amended, and forms of agreement thereunder.</a>	S-8	333-189577	99.1	June 25, 2013	
99.2	<a href="#">NeoPhotonics Corporation 2010 Employee Stock Purchase Plan.</a>	S-1	333-166096	10.5	November 22, 2010	

**SIGNATURES**

Pursuant to the requirements of the Securities Act of 1933, as amended, the Registrant certifies that it has reasonable grounds to believe that it meets all of the requirements for filing on Form S-8 and has duly caused this Registration Statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of San Jose, State of California, on April 12, 2019.

**NeoPhotonics Corporation**

By: \_\_\_\_\_ /s/ Timothy S. Jenks  
**Timothy S. Jenks**  
**President, Chief Executive Officer and**  
**Chairman of the Board of Directors**

## POWER OF ATTORNEY

KNOW ALL PERSONS BY THESE PRESENTS, that each person whose signature appears below constitutes and appoints **TIMOTHY S. JENKS** and **ELIZABETH EBY**, jointly and severally, as his or her true and lawful attorneys-in-fact and agent, with full power of substitution and resubstitution, for him or her and in his or her name, place and stead, in any and all capacities, to sign any and all amendments (including post-effective amendments) to this Registration Statement on Form S-8, and to file the same, with all exhibits thereto, and other documents in connection therewith, with the Securities and Exchange Commission, granting unto said attorneys-in-fact and agents, and each of them, full power and authority to do and perform each and every act and thing requisite and necessary to be done in connection therewith, as fully to all intents and purposes as he might or could do in person, hereby ratifying and confirming all that said attorneys-in-fact and agents, or any of them, or their substitutes or substitute, may lawfully do or cause to be done by virtue hereof.

Pursuant to the requirements of the Securities Act of 1933, as amended, this Registration Statement has been signed by the following persons in the capacities and on the dates indicated.

<u>Signature</u>	<u>Title</u>	<u>Date</u>
<u>/s/ Timothy S. Jenks</u> <b>Timothy S. Jenks</b>	President, Chief Executive Officer and Chairman of the Board of Directors (Principal Executive Officer)	April 12, 2019
<u>/s/ Elizabeth Eby</u> <b>Elizabeth Eby</b>	Senior Vice President and Chief Financial Officer (Principal Financial and Accounting Officer)	April 12, 2019
<u>/s/ Charles J. Abbe</u> <b>Charles J. Abbe</b>	Director	April 12, 2019
<u>/s/ Dmitry Akhanov</u> <b>Dmitry Akhanov</b>	Director	April 12, 2019
<u>/s/ Bandel L. Carano</u> <b>Bandel L. Carano</b>	Director	April 12, 2019
<u>/s/ Rajiv Ramaswami</u> <b>Rajiv Ramaswami</b>	Director	April 12, 2019
<u>/s/ Michael J. Sophie</u> <b>Michael J. Sophie</b>	Director	April 12, 2019
<u>/s/ Ihab S. Tarazi</u> <b>Ihab S. Tarazi</b>	Director	April 12, 2019



John H. Sellers  
+1 650 843 5070  
jsellers@cooley.com

April 12, 2019

NeoPhotonics Corporation  
2911 Zanker Road  
San Jose, California 95134

Ladies and Gentlemen:

We have acted as counsel to NeoPhotonics Corporation, a Delaware corporation (the "**Company**") in connection with the filing of a Registration Statement on Form S-8 (the "**Registration Statement**") with the U.S. Securities and Exchange Commission covering the offering of up to 1,723,244 shares of the Company's Common Stock, par value \$0.0025 per share, which includes (a) 1,623,244 shares of Common Stock (the "**2010 EIP Shares**") issuable pursuant to the Company's 2010 Equity Incentive Plan, as amended (the "**2010 EIP**"), and (b) 100,000 shares of Common Stock (the "**2010 ESPP Shares**") issuable pursuant to the Company's 2010 Employee Stock Purchase Plan (the "**2010 ESPP**" and together with the 2010 EIP, the "**Plans**").

In connection with this opinion, we have examined and relied upon (a) the Registration Statement and related prospectuses, (b) the Plans, (c) the Company's Amended and Restated Certificate of Incorporation and Amended and Restated Bylaws, each as currently in effect and (d) the originals or copies certified to our satisfaction of such other records, documents, certificates, memoranda and other instruments as in our judgment are necessary or appropriate to enable us to render the opinion expressed below. We have assumed the genuineness and authenticity of all documents submitted to us as originals, and the conformity to originals of all documents submitted to us as copies thereof. As to certain factual matters, we have relied upon a certificate of an officer of the Company and have not sought independently to verify such matters.

Our opinion is expressed only with respect to the General Corporation Law of the State of Delaware. We express no opinion to the extent that any other laws are applicable to the subject matter hereof and express no opinion and provide no assurance as to compliance with any federal or state securities law, rule or regulation.

On the basis of the foregoing, and in reliance thereon, we are of the opinion that the 2010 EIP Shares and the 2010 ESPP Shares, when sold and issued in accordance with the 2010 EIP and the 2010 ESPP, respectively, and the Registration Statement and related prospectuses, will be validly issued, fully paid, and nonassessable (except as to shares issued pursuant to certain deferred payment arrangements, which will be fully paid and nonassessable when such deferred payments are made in full).

We consent to the filing of this opinion as an exhibit to the Registration Statement.

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Cooley LLP 3175 Hanover Street Palo Alto, CA 94304-1130  
t: (650) 843-5000 f: (650) 849-7400 cooley.com

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Very truly yours,

**COOLEY LLP**

By: /s/ John H. Sellers  
John H. Sellers



**CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM**

We consent to the incorporation by reference in this Registration Statement on Form S-8 of our reports dated March 7, 2019, relating to the consolidated financial statements of NeoPhotonics Corporation and subsidiaries (the "Company"), and the effectiveness of the Company's internal control over financial reporting, appearing in the Annual Report on Form 10-K of the Company for the year ended December 31, 2018.

/s/ Deloitte & Touche LLP

San Jose, California

April 12, 2019

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